

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SSO-00 SCCT-01 SAM-01 CIAE-00 DODE-00

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SP-02 SS-15 NSCE-00 USIE-00 INRE-00 /055 W

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FM AMEMBASSY MADRID

TO SECSTATE WASHDC IMMEDIATE 3807

INFO AMEMBASSY ATHENS

AMEMBASSY BERN

AMEMBASSY BONN

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AMEMBASSY LUXENBOURG

AMEMBASSY OSLO

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY VIENNA

USMISSION NATO

USEC BRUSSELS

USCINCEUR

C O N F I D E N T I A L MADRID 8340

E.O. 11652: GDS

TAGS: PFOR, PINT, SP

SUBJ: KING DECREES GENERAL PARDON (INDULTO) AND BESTOWS TITLES ON  
FRANCO'S WIFE AND DAUGHTER

SUMMARY: THE COUNCIL OF MINISTERS, NOVEMBER 25, APPROVED THE  
EXPECTED PARDON DECREE FOR MOST CRIMES EXCEPT THOSE THAT COME  
WITHIN THE PURVIEW OF THE ANTI-TERRORIST LAW INCLUDING  
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PROPAGANDA OR MEMBERSHIP IN PROSCRIBED GROUPS. THE PURPOSE,

IN RELATION WITH THE INSTALLATION OF KING JUAN CARLOS, IS TO REAFFIRM THE AIMS OF PEACEFUL COMITY AMONG SPANIARDS AND IN HOMAGE TO FRANCO'S MEMORY. GOS SOURCE HAS TOLD US THAT THE ETA MURDER OF A BASQUE MAYOR (MADRID 8270) HAD PROVOKED A DECISION TO CIRCUMSCRIBE THE PARDON, LEAVING UNCOMMUTED SENTENCES OF THOSE INVOLVED IN PROPAGANDA AND OTHER ACTIVITIES UNDER THE WIDE-RANGING NET OF THE ANTI-TERRORIST ACT. DEMOCRATIC OPPOSITION FIGURES HAVE TOLD US THEY FEAR COMMUTATION WILL APPLY LARGELY TO COMMON CRIMINALS AND LITTLE TO POLITICAL CRIMES. IN LESS SPECTACULAR FASHION, CIVIL GOVERNORS HAVE COMMUTED FINES OR REMOVED SENTENCES ON PRIESTS. END SUMMARY

1. COUNCIL OF MINISTERS MEETING NOV 25 CHAIRED BY PREMIER ARIAS APPROVED A DECREE SIGNED BY KING JUAN CARLOS I PROVIDING FOR A GENERAL PARDON AND COMMUTATION OF SENTENCES. (FULL TRANSLATION SENT FBIA.) KING'S, STATED PURPOSE IS TO

ENHANCE JUSTICE AND TO PROMOTE SOLIDARITY AND UNITY OF ALL SPANIARDS ECHOING THEREBY SOME KEY LANGUAGE IN HIS FIRST ADDRESS TO THE NATION NOV 22. DECREE NOTES THAT FRANCO HAD GRANTED 11 GENERAL PARDONS DURING HIS RULE AND THAT THIS WOULD BE A TRIBUTE TO HIS MEMORY. THE DECREE MAKES THE SIGNIFICANT ASSERTION THAT THE COMMUTATION WAS PROPOSED BY THE MINISTERS OF JUSTICE, ARMY, NAVY, AND AIR FORCE. (PARDON IN THE SENSE USED HERE COMMUTES ALL OR PART OF SENTENCE OR PENALTY; AN AMNESTY WOULD HAVE REMOVED ALL RECORD OF TRIAL AND SENTENCE.)

2. UNDER DECREE'S TERMS, SENTENCES OF UP TO THREE YEARS ARE VOIDED, SENTENCES UP TO SIX YEARS ARE REDUCED BY THREE YEARS, SENTENCES UP TO 12 YEARS ARE REDUCED BY THREE YEARS, SENTENCES UP TO 20 YEARS ARE REDUCED BY FOUR YEARS, AND SENTENCES OVER 20 YEARS ARE REDUCED BY ONE-SIXTH, EXCEPT FOR THOSE STEMMING FROM THE COMMUTATION OF A DEATH SENTENCE. THE MINIMUM REDUCTION OF ANY SENTENCE WILL NOT BE LESS THAN THREE YEARS.

3. UNAFFECTED BY THE DECREE ARE PERSONS CONVICTED OF TERRORIST CRIMES, TERRORIST PROPAGANDA ACTIVITIES OR CONFIDENTIAL

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MEMBERSHIP IN PROSCRIBED ASSOCIATIONS UNDER THE LAWS OF TERRORISM (UNDER ANTI-TERRORIST LAW OF AUGUST 26, 1975, THE PROSCRIBED GROUPS ARE COMMUNISTS, ANARCHISTS, AND SEPARATISTS). THE SENTENCES OF REMOVAL FROM THE SERVICE, AND OTHERS PRESCRIBED BY THE MILITARY CODE AS WELL AS SOME SENTENCES STEMMING FROM PECUNIARY CRIMES ARE ALSO EXEMPTED FROM THE DECREE. THE PARDON ALSO QUASHES INDICTMENTS WHERE THE PENALTIES COULD NOT AMOUNT TO MORE THAN

THREE YEARS. ALL PERSONS WHO HAVE SERVED PRISON TERMS OF OVER 20 YEARS FOR CRIMES, EXCEPT THOSE SERVING COMMUTED DEATH SENTENCES, ARE PARDONED.

4. IN A SEPARATE MATTER, THE CIVIL GOVERNORS OF THE PROVINCES OF SANTANDER, MURCIA, CADIZ AND JEREZ DE LA FRONTERA, HAVE REVERSED DECISIONS TAKEN IN RECENT WEEKS FINING PRIESTS FOR THEIR HOMILIES. THE CIVIL GOVERNORS OF GUIPUZCOA AND GRANADA HAVE FREED THREE PRIESTS WHO WERE IMPRISONED FOR THEIR ALLEGED POLITICAL ACTIVITIES. ALTHOUGH THERE IS NO PUBLIC MENTION OF A GOVT INSTRUCTION TO CIVIL GOVERNORS -- WHICH WOULD HAVE TO COME FROM THE MINISTER OF THE INTERIOR -- OBSERVERS BELIEVE THAT THE GOVT, UNDER PRESSURE FROM THE KING, HAS QUIETLY ORDERED CIVIL GOVERNORS TO REVIEW CASES OF PRIESTS WHO HAVE BEEN IMPRISONED OR FINED AND TO REVERSE COURT ORDERS WHEREVER POSSIBLE.

5. A WELL-PLACED SOURCE IN THE PRESIDENCY TOLD EMBOFF THAT ORIGINAL PLANS HAD BEEN TO MAKE THE PARDON MORE COMPREHENSIVE, COMMUTING PROCEEDINGS FOR THOSE ROPED IN UNDER THE ANCILLIARY PROVISIONS OF THE ANTI-TERRORIST ACT, SO THAT PEOPLE INVOLVED IN PROPAGANDA OR JOURNALISTS, LIKE HUERTAS CLAVERIA OF BARCELONA, WOULD HAVE BEEN FREED. THIS WOULD HAVE LEFT UNCOMMUTED THE SENTENCES OR PROCEEDINGS OF ONLY THOSE WHO WERE DIRECTLY IMPLICATED IN TERRORIST ACTS OR AS ACCESSORIES. THE KILLING OF THE MAYOR OF OYARZUN, BY THE BASQUE TERRORIST ETA, HAD CAUSED THE DECREE TO BE RESHAPED TO EXEMPT THOSE FROM THE PARDON WHO FELL UNDER ANTI-TERRORISM LEGISLATION. THE QUESTION OF INTERPRETATION REMAINED, ALTHOUGH HE FELT THAT NUMBERS OF PERSONS SENTENCED FOR POLITICAL CRIMES PRIOR TO THE ANTI-TERRORIST

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ACT WOULD RECEIVE THE BENEFIT OF THE COMMUTATION.

6. OPPOSITION CHRISTIAN DEMOCRATIC LEADER JOAQUIN RUIZ GIMENEZ AS WELL AS A PROMINENT PSOE SOCIALIST TOLD LABATT TODAY DEMOCRATIC SPANISH OPPOSITION SPECTRUM WERE QUITE DISAPPOINTED BY "INDULTO". THEY FEARED THAT GOVT COULD, IF IT WISHED, EXEMPT ANYONE FROM "INDULTO" WHO BELONGED TO ASSOCIATIONS OR ORGANIZATIONS WHICH SOMEHOW FALL WITHIN THE SCOPE OF EXISTING LEGISLATION INVOLVING TERRORISM, LETTING COMMUTATION OF SENTENCES APPLY ONLY TO COMMON CRIMINALS. THEY WOULD HAVE TO SEE HOW JUSTICE MINISTER INTERPRETED THE DECREE.

7. AGAIN, THE EFFORT TO ACHIEVE BALANCE IN JUAN CARLOS' ACTIONS IS NOTEWORTHY, EVEN AS THE PARDON WAS ISSUED HE ALSO GRANTED

PATENTS OF NOBILITY TO MRS. BRANCO AND THE DAUGHTER. BUT IN THIS  
CASE THE USE OF A SECTION OF THE DISCREDITED  
ANTI-TERRORIST LAW TO RESTRICT THE SCOPE OF THE  
CLEMENCY AND DOUBTS ABOUT HOW THE COMMUTATION DECREE WILL  
BE INTERPRETED HAVE MEANT THAT THE DECREE HAS LOST SOME  
OF ITS LUSTRE. AGAIN IT INDICATES THE CAPABILITY OF EXTREMIST  
GROUPS LIKE ETA TO SHAKE THE COURSE OF EVOLUTION.  
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